

**REMARKS:**

Claims 2-4 and 6-10 are currently pending. Claims 2-4 and 8-10 are currently being considered, of which claims 4, 9, and 10 have been amended herein. Claims 6-7 have been withdrawn from consideration.

Claims 4, 9, and 10 stand rejected under the second paragraph of 35 USC 112 as being indefinite due to various noted informalities.

Claims 4, 9, and 10 have been amended in a manner intended to remove the noted informalities. Accordingly, Applicant respectfully submits that this rejection of claims 4, 9, and 10 should be withdrawn.

Claims 2, 8, and 9 stand rejected under 35 USC 102(b) as anticipated by USP 3,946,993 (Morlin).

Applicant respectfully traverses this rejection of claims 2, 8, and 9, for the following reasons.

**Morlin** discloses different embodiments. Figures 1a and 1b depict a first embodiment. Figure 3 depicts a second embodiment, that is separate and distinct from the first embodiment.

The first embodiment has a sectional pipe 2 open at both ends with the outlet of pipe 2 having

a larger diameter than the inlet (see Figures 1a and 1b). The second embodiment has a conical outer member closed at its narrow end, has a deflection insert 3, and has an outlet with a diameter that is smaller than the largest diameter of the inlet (see Figure 3; and column 4, lines 15-21).

**Regarding claims 8 and 9:**

A claim is only anticipated if each and every element as set forth in the claim is found. The identical invention must be shown by the Examiner. The elements must be arranged as required by the claim.

Neither one of the above-described **Morlin** embodiments expressly or inherently describes all features set forth in claims 8 and 9. Furthermore, no other embodiments of **Morlin** expressly or inherently describe all features set forth in claims 8 and 9.

The first embodiment of **Morlin** fails to describe “a container main unit having an interior space with a bottom, a pressurized liquid inlet opened in a tangential direction ... , a gas introducing hole opened at the bottom of the interior space” as set forth in claims 8 and 9, in combination with the other claimed features.

The second embodiment of **Morlin** fails to describe “said interior space having a largest bore diameter substantially equal to a bore diameter of said gas-liquid mixture outlet opening” as set forth

in claims 8 and 9, in combination with the other claimed features.

Accordingly, in view of the above, Applicant respectfully submits that the rejection of claims 8 and 9 should be withdrawn.

**Regarding claim 2:**

A claim is only anticipated if each and every element as set forth in the claim is found. The identical invention must be shown by the Examiner. The elements must be arranged as required by the claim.

Neither one of the above-described **Morlin** embodiments expressly or inherently describes all features set forth in claim 2. Furthermore, no other embodiments of **Morlin** expressly or inherently describe all features set forth in claim 2.

The first embodiment of **Morlin** fails to describe “an interior space of frustro-conical shape and being closed at one end” as set forth in claim 2, in combination with the other claimed features.

The second embodiment of **Morlin** fails to describe “said interior space having a largest bore diameter substantially equal to a bore diameter of said gas-liquid mixture outlet opening” as set forth in claim 2, in combination with the other claimed features.

Thus, in view of the above, Applicant respectfully submits that the rejection of claim 2 should be withdrawn.

Claims 3, 4, and 10 stand rejected under 35 USC 103(a) as obvious over **Morlin** in view of USP 2,653,801 (**Fontein**).

Applicant respectfully traverses this rejection of claims 3, 4, and 10, for the following reasons.

The Examiner has suggested that **Morlin** discloses Applicants' invention as recited in claims 3, 4, and 10, except for aspects relating to the inlet means being in the form of plural tangential inlets.

There must be a basis in the art for combining or modifying references. Yet the Examiner modified **Morlin** without identifying a motivation or suggestion for making such a modification. In particular, the Examiner modified **Morlin** by taking some portions of the first embodiment of **Morlin** (Figs. 1a and 1b) and combining them with the second embodiment of **Morlin** (Fig. 3). The Examiner did not identify a motivation or suggestion for such a modification.

Thus, the rejection under 35 USC 103 is improper and should be withdrawn.

Furthermore, the Examiner did not apply the correct teaching-suggestion-motivation test for an obviousness rejection under 35 USC 103(a), regarding claims 3, 4, and 10.

The Examiner has not shown how **Morlin** and **Fontein**, alone or in combination, could describe, teach, or suggest the following features of **claim 2**: "an interior space of frustro-conical shape and being closed at one end" ... "said interior space having a largest bore diameter substantially equal to a bore diameter of said gas-liquid mixture outlet opening," in combination with the other claimed features.

The Examiner has not shown how **Morlin** and **Fontein**, alone or in combination, could describe, teach, or suggest these features of **claim 10**: "a container bottom closing said space at one axial end thereof and a gas-liquid mixture outlet opening at the other end thereof, said interior space having a largest bore diameter substantially equal to a bore diameter of said gas-liquid mixture outlet opening," in combination with the other claimed features.

When obviousness is based on the teachings of multiple prior art references, the Examiner must establish some suggestion, teaching, or motivation that would have led a person of ordinary skill in the art to combine the relevant prior art teachings in the manner claimed.

The reason, suggestion, or motivation to combine prior art references may be found explicitly or implicitly: 1) in the prior art references themselves; 2) in the knowledge of those of ordinary skill

in the art that certain references, or disclosures in those references, are of special interest or importance in the field; or 3) from the nature of the problem to be solved, leading inventors to look to references relating to possible solutions to that problem. The case law of the Court of Appeals for the Federal Circuit makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references. This is because combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight. In view of the above, a person of ordinary skill in the art must not only have had some motivation to modify/combine the prior art teachings, but some motivation to modify/combine the prior art teachings in the particular manner claimed.

The Examiner's analysis applied an incomplete teaching-suggestion-motivation test in the rejection claims 3, 4, and 10. This is because the Examiner rejected claims 3, 4, and 10 of the subject application on obviousness grounds without making findings as to the specific understanding or principle within the knowledge of a skilled artisan that would have motivated one with no knowledge of the invention to make the modification/combination in the manner claimed.

There is a requirement to make specific findings as to whether there was a suggestion or motivation to modify/combine the teachings of **Morlin** and **Fontein** in the particular manner claimed by claims 3, 4, and 10 of the subject application.

The test requires that the nature of the problem to be solved be such that it would have led a person of ordinary skill in the art to modify/combine the prior art teachings in the particular manner claimed.

The Examiner has not properly applied that test, in that the Examiner has not shown any suggestion or motivation to modify the above-discussed first or second embodiments of **Morlin** and then combine that modification with **Fontein**, in a manner intended to arrive at the features set forth in claims 3, 4, and 10, and therefore the rejection is improper and should be withdrawn.

Accordingly, in view of the above, Applicant respectfully submits that the rejection of claims 3, 4, and 10 should be withdrawn.

Additionally, Applicant respectfully submits that the rejection of claims 3 and 4 should be withdrawn by virtue of their dependency.

In view of the aforementioned amendments and accompanying remarks, all claims currently pending are in condition for examination.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the Applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

U.S. Patent Application Serial No. 09/743,531

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Reply to OA dated February 6, 2006

In the event that this paper is not timely filed, the Applicant respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due now or in the future with respect to this application, to Deposit Account No. 01-2340.

Respectfully submitted,  
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Enclosures: Petition for Extension of Time